

United States District Court

DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA

ORDER OF DETENTION PENDING TRIAL

v.

ROMAN ZHIRNOV

CASE NUMBER: 02-30043-MAP

In accordance with the Bail Reform Act, 18 U.S.C. §3142(f), a detention hearing has been held. I conclude that the following facts are established by clear and convincing evidence and require the detention of the defendant pending trial.

Part One - Findings of Fact

- 9 (1) The defendant has been convicted of a (federal offense) (state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
- 9 a crime of violence as defined in 18 U.S.C. §3156(a)(4).
- 9 an offense for which the maximum sentence is life imprisonment or death.
- 9 an offense for which a maximum term of imprisonment of ten years or more is prescribed in _____.¹
- 9 a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. §3142(f)(1)(A)-(C), or comparable state or local offenses.
- 9 (2) The offense described in finding 1 was committed while the defendant was on release pending trial for a federal, state or local offense.
- 9 (3) A period of not more than five years has elapsed since the (date of conviction) (release of the defendant from imprisonment) for the offense described in finding 1.
- 9 (4) Findings Nos. 1 and (2) (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an)other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings

- 9 (1) There is probable cause to believe that the defendant has committed an offense
- 9 for which a maximum term of imprisonment of ten years or more is prescribed in _____.²
- 9 under 18 U.S.C. §924(c).
- 9 (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings

- 9 (1) _____
- 9 (2) _____
- 9 (3) There is a serious risk that the defendant will flee.
- 9 (4) There is a serious risk that the defendant will (obstruct or attempt to obstruct justice) (threaten, injure or intimidate a prospective witness or juror).

Part II - Written Statement of Reasons for Detention

I find credible testimony and information³ submitted at the hearing establishes by clear and convincing evidence that

This day, Defendant did not bring forward a package of conditions that satisfy the court's concern about Defendant's future appearance in court. Accordingly, Defendant is detained pending trial. At a later date, Defendant may bring forward a package of conditions for the court's consideration, that may satisfy the court's concerns with respect to a risk of flight.

Part III - Directions Regarding Detention

The defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of a attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States marshal for the purpose of an appearance in connection with a court proceeding.

Date: 01/30/04/s/ Kenneth P. Neiman

KENNETH P. NEIMAN, U.S. Magistrate Judge

¹ Insert as applicable: (a) Controlled Substances Act (21 U.S.C. §801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. §951 *et seq.*); or (c) Section 1 of Act of September 15, 1980 (21 U.S.C. §955(a)).

² Insert as applicable: (a) Controlled Substances Act (21 U.S.C. §801 *et seq.*); (b) Controlled Substances Import and Export Act (21 U.S.C. §951 *et seq.*); or (c) Section 1 of Act of September 15, 1980 (21 U.S.C. §955(a)).

³ "The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the [detention] hearing." 18 U.S.C. §3142(f). See 18 U.S.C. §3142(g) for the factors to be taken into account.